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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/829,273	04/09/2001	Wayne R. Myers	CRNC.78765	8119

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SHOOK, HARDY & BACON L.L.P.
2555 GRAND BOULEVARD
KANSAS CITY, MO 64108-2613

EXAMINER	
SHORTLEDGE, THOMAS E	

ART UNIT	PAPER NUMBER
2654	

DATE MAILED: 07/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/829,273	MYERS ET AL.	
	Examiner	Art Unit	
	Thomas E. Shortledge	2654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 March 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-60* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-60* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *06/04/2002*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This communication is in response to Remarks received 03/21/2005.

2. Claims 1-60 are pending in the application. Claims 1, 21, and 41 are independent claims.

3. The objection to claims 2, 22, and 42 have been withdrawn in accordance with the applicants' amendments.

Response to Amendment

4. The amendment filed 03/21/2005 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: the amendment defining a medical test as an "actual" medical test, where the term actual medical test is not defined within the specification and can be now found in the amended claims 1, 21, and 41.

Applicant is required to cancel the new matter in the reply to this Office Action.

Response to Arguments

5. Applicant's arguments filed 03/21/2005 have been fully considered but they are not persuasive.

6. The applicant argues (Remarks, pages 13-18) that in the claims 1, 21, and 41, the Rapaport reference does not teach an actual medical test that has not yet been translated to a plain language explanation, nor does the reference teach receiving an actual medical test and finding identifying the bulletins associated with the type of medical test. Further, the Rapaport reference fails to describe either expressly or inherently a computer system selecting the template matching the actual medical test result as required by the amended claim 1. The examiner argues that because the amendment "actual" to the above claims has been deemed new matter, the arguments pertaining to that such amendment are moot and the rejections to the claims has been repeated.

7. The applicant argues (Remarks, page 14) that in claim 8 the Rapaport reference does not teach a system that determines if the medical test result will be interpreted by a clinician, and further the reference fails to describe a system that receives the actual medical test result, and thus, the system is inherently incapable of distributing the actual medical test result to a clinician, who then provides input to the system so the system

may select the template matching the medical test result. The examiner argues that since the amendment to the parent claim pertaining to the word "actual" describing medical test has been deemed new matter, the argument in claim involving such reference is moot. The argument pertaining to the determining if the medical test result will be interpreted by a clinician has been answered in the following version of the previous rejections.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-60 are rejected under 35 U.S.C. 102(b) as being anticipated by Rapaport et al. (5,926,526).

As to claims 1, 21, and 41, Rapaport et al. teach:

a computer system containing a computer-readable medium containing instructions for controlling a computer system (a computer system containing a processor and a computer-readable medium, col. 4, lines 20-26; it would be inherent

that the computer-readable medium contained instructions for controlling the computer system);

receiving a medical test result (medical information) for a type of medical test (medical information or bulletins are created and provided to the system , col. 9, lines 48-49);

identifying at least one template (bulletin) associated with the medical test (the bulletin is identified by the bulletin code number supplied, col. 9 lines 52-53);

selecting the template matching the medical test result (the bulletin is identified by the bulletin code number supplied, col. 9 lines 52-53; it would be inherent that the bulletin would be selected to match the corresponding medical information supplied by the medical professional);

outputting a plain language explanation based on the selected template (Table A contains plain language explanations based on different selectable templates, col. 10, lines 40-66).

As to claims 2, 22, 42, Rapaport et al. teach identifying a set of a plurality of templates associated with the type of medical test (Table A contains sets of bulletins that belong to the same group of bulletins, such as T1, T2, and T3, and P1 and P2, col. 10, lines 40-66).

As to claims 3, 23, and 43, Rapaport et al. teach each template of the identified set corresponds to a range of medical test results (Table A, contains sets of bulletins,

and within each set of bulletins, there are specific bulletins for different test result ranges, col. 10, lines 40-66).

As to claims 4, 24, and 44, Rapaport et al. teach determining a template corresponding to the range encompassing the medical test result (the medical professional can select from a list of pre-recorded bulletins, the correct corresponding bulletin based on the range of the medical result, col. 9, lines 63-67, and 10, lines 40-66).

As to claims 5, 25, and 45, Rapaport et al. teach each template of the identified set corresponds to a medical test result value (Table A comprises sets of bulletins where the individual bulletins are based on the result from the medical test, col. 10, lines 40-66).

As to claims 6, 26, and 46, Rapaport et al. teach the selecting step includes determining template corresponding to the medical test result value (the medical professional is able to select the correct message from a list of pre-recorded bulletins, col. 9, lines 48-55, and line 67, through col. 10 line 2; it would be inherent that this step would include the template corresponding to the medical test result value).

As to claims 7, 27, and 47, Rapaport et al. teach the step of determining if the medical test result will be interpreted by a clinician (a step where, if the medical

professional wishes, the system will allow the medical professional to add an 'on-the-fly' bulletin, col. 10, lines 22-24; it would be inherent that the 'on-the-fly' bulletin could contain interpretations by a clinician).

As to claims 8, 28, and 48, Rapaport et al. teach if the medical test result will be interpreted by a clinician, distributing the medical test result to the clinician (a template that when a level with the blood sugar is reached, the template gives instructions for the patient to call for instructions (page 10, lines 64-66), where it would be inherent that when the patient calls for instructions, the medical test information would be given to the clinician for interperation), and the selecting step includes receiving clinician input, the input matching the medical test result to a template (the medical professional is able to select for each medical test a corresponding bulletin, col. 50-55, and col. 10, lines 40-66).

As to claims 9, 29, and 49, Rapaport et al. teach the step of recording the input of the clinician ('on-the-fly' bulletins are recorded by the medical professionals, col. 10, lines 22-24).

As to claims 10, 30, and 50, Rapaport et al. teach receiving patient information and comparing the patient information against a list of patients having authorization to receive the medical test result (a patient enters his identification number, along with a password, then the system gives the patient access to their mailbox, col. 7 lines 48-57).

As to claims 11, 31, and 51, Rapaport et al. teach the selected template includes at least one placeholder (Table A, contains bulletins with placeholders, such as C1 and C2, and 1P2, 1G1, and 1G2, col. 10, lines 40-66).

As to claims 12, 32, and 52, Rapaport et al. teach the step of inserting data into the selected template at the placeholder (Table A, contains bulletins with placeholder, where data may be inserted, col. 10, lines 40-66; it would be inherent that there would be a step of inserting data in the placeholder).

As to claims 13, 33, and 53, Rapaport et al. teach the data is a numerical value for the medical test result (within Table A, bulletin C1 and C2 contain data that is a numerical value, col. 10, lines 40-66).

As to claims 14, 34, and 54, Rapaport et al. teach the step of determining whether the selected template can be sent directly to a patient (the medical provider is able to select if the corresponding bulletin is to be sent to the patient of if not, an 'on-the-fly' bulletin is to be made and sent, col. 9, line 63 though col. 10, line 2, and col. 10, lines 22-24).

As to claims 15, 35, and 55, Rapaport et al. teach the outputting includes a message to a storage unit adapting the selected template for viewing via a web browser

(an output device can be an internet device, col. 5, lines 11-13; it would be inherent that outputting to an internet device would include storing the message in a storage unit, and viewing the message with a web browser).

As to claims 16, 36, and 56, Rapaport et al. teach the outputted plain language explanation is textual, (the output can be an email, col. 5, lines 11-14).

As to claims 17, 37, and 57, Rapaport et al. teach the outputted plain language explanation is audible, (the output can be voice via a telephony circuit, col. 5, lines 1-2 and 11).

As to claims 18, 38, and 58, Rapaport et al. teach the plain language explanation is delivered by an automated phone system, (the output can be via a telephony circuit, col. 5, lines 1-2).

As to claims 19, 39, and 59, Rapaport et al. teach the plain language explanation is delivered by a wireless device (the output can be a wireless communication device, col. 5, lines 11-13).

As to claims 20, 40, and 60, Rapaport et al. teach the step of distributing the test results to a physician for review prior to the step of outputting a plain language explanation based on the selected template (the medical provider is able to review the

test results and add an 'on-the-fly' message further describing the result, col. 9, lines 48-55, and col. 10, lines 22-24).

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas E. Shortledge whose telephone number is (571)272-7612. The examiner can normally be reached on M-F 8:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil can be reached on (571)272-7602. The fax phone

number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TS
6/24/2005

VIJAY CHAWAN
PRIMARY EXAMINER